



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
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ARNOLD SCHWARZENEGGER, Governor
John McCamman, Director



February 10, 2010

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**Subject: Habitat Expansion Agreement, Draft Habitat Expansion Plan for
Central Valley Spring-Run Chinook Salmon and Steelhead Trout**

Dear Mss. Imset and Rooks:

Thank you for the opportunity for the Department of Fish and Game (Department) to provide recommendations regarding the subject Habitat Expansion Agreement, Draft Habitat Expansion Plan (HEP), dated November 2009. As described in the Habitat Expansion Agreement (HEA) steering committee letter to the nine signatories, dated October 28, 2008, the HEA was negotiated as an alternative to Federal Power Act (ACT) fish passage prescriptions as part of the Federal Energy Regulatory Commission (FERC) relicensing of Oroville, Poe, and Upper North Fork Feather River hydropower projects located on the Feather River. The overall goal of the HEA is to expand the amount of habitat with physical characteristics necessary to support spawning, rearing, and adult holding for an increase of between 2,000 and 3,000 spawning Spring-run Chinook salmon in the Sacramento River Basin.

As one of the nine signatories, our Department supports the goal of the HEA and recommends funds from the HEA be directed to achieve these goals as soon as possible. The HEP identified two groupings of habitat expansion and enhancement actions that each meet the goals, terms and conditions of the HEA: 1) the Lower Yuba River Habitat Expansion Actions (Lower Yuba River Actions); and 2) the

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Battle Creek, Big Chico Creek, and Antelope Creek Habitat Expansion Actions (Three Creek Actions). The HEP concludes that one of these two groups of actions should be implemented under the HEA.

The Department agrees each of the groups of actions identified in the HEP meets the goals, terms, and conditions of the HEA. Furthermore, the Department believes that the Three Creek Actions is the preferred group of actions to meet the HEA goals. All of the actions in this group are essentially shovel-ready projects that could use HEA money to leverage other funds to begin construction and provide immediate and permanent access to habitat for the target species (Spring-run Chinook salmon and Central Valley steelhead trout) as identified in the HEA.

Throughout the development of the HEA there has been concern regarding the eligibility of funding Phase 2 of the Battle Creek Salmon and Steelhead Restoration Project (Project), one of the actions identified in the Three Creek Actions, based on Section 3.1 of the HEA. Section 3.1 provides language indicating eligible habitat expansion actions must result "in a net expansion of habitat over any existing requirements or commitments". Further the National Marine Fisheries Service questions the eligibility of the Project in a letter to the Department of Water Resources (DWR) and Pacific Gas and Electric Company, dated November 10, 2009, stating that "All phases of the Battle Creek Salmon and Steelhead Restoration Program are part of the Reasonable and Prudent Alternative (RPA) included in the Biological Opinion (BO) on the long term operations of the Central Valley Project and State Water Project (OCAP BO)".

The OCAP BO Action I.2.6 requires the U.S. Bureau of Reclamation and DWR to direct discretionary funds to the Project. However, as the HEP clearly points out, this statement does not ensure that such discretionary funds will be available, does not provide an alternative funding source, and therefore does not secure enough funding to complete Phase 2 of the Project. Because of these uncertainties our Department believes Phase 2 of the Project clearly meets the eligibility requirements for the HEA, and funding the Three Creek Actions group will provide expeditious permanent habitat in three separate Sacramento Valley tributaries for both target species.

The Department believes the Lower Yuba River Actions have elements that are desirable and should be pursued. These include spawning habitat rehabilitation of the Englebright Dam Reach, floodplain and riparian habitat restoration, and fish passage improvements at Daguerre Point Dam. However, we do have concerns with some of the proposed actions such as the installation of a segregation weir.

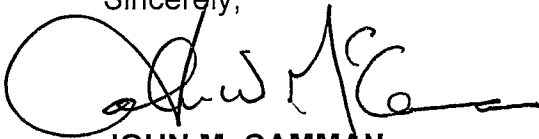
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Over summer holding patterns of Spring-run Chinook salmon in the Lower Yuba River have not been clearly delineated. Without understanding of these holding patterns, the operation of a segregation weir could reduce available spawning habitat for those fish holding downstream of the proposed weir. This is potentially in conflict with overall HEA objectives.

The Department will continue to work with the various State and federal agencies, corporations, and non-government organizations in the effort to recover Spring-run Chinook salmon and steelhead trout populations in the lower Yuba River.

If you have questions regarding our recommendations, please contact Staff Environmental Scientist Mike Berry at (530) 225-2131 or e-mail mberry@dfg.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'John McCamman', with a large circular flourish at the beginning.

JOHN McCAMMAN
Director

Attachments

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